

MEMO ENDORSED



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September 20, 2021

VIA ECF

Honorable Kenneth M. Karas, U.S.D.J.
United States District Court
Southern District of New York
300 Quarropas Street, Room 533
White Plains, NY 10601

Re: LMREC III Note Holder, Inc. v. Hudson EFT LLC, et al.
Case No. 7:20-cv-5063 (KMK)(PED)

Dear Judge Karas:

This firm represents defendants Samuel Gaccione and William Clarke in the above matter. We write on behalf of our clients and co-defendants Hudson EFT LLC, Guido Subotovsky and Hugo Subotovsky (collectively, "Defendants") to respectfully request that Defendants' time to serve and file opposition to Plaintiff's pending motion for summary judgment (ECF Doc. 182) be extended by two (2) weeks, to October 6, 2021. Pursuant to the Order and Briefing Schedule entered on July 26, 2021 (the "Scheduling Order"), the current deadline for Defendants' opposition is September 22, 2021. (ECF Doc. 156).

This would be the first extension of the deadline for Defendants to oppose Plaintiff's summary judgment motion, which was filed on September 1, 2021. It is being requested because I was out of the office for the Jewish holidays this month and because I have conflicting briefing schedules in several other matters. With the extension, Plaintiff's reply papers would be due by November 3, 2021.

I emailed Plaintiff's counsel last Friday at 11:32 AM to inquire whether Plaintiff would consent to the proposed extension and only after I followed up this morning was I informed this afternoon that Plaintiff would not consent to any extension because the parties had agreed to twenty-one (21) days for opposition in the Scheduling Order. A copy of the pertinent email string is attached hereto as Exhibit "A".

The Scheduling Order at issue directed summary judgment motions pertaining to events of monetary default to be made "no later than thirty (30) days after the close of fact discovery, or by **September 20, 2021.**" (ECF Doc. 156 at ¶ 4) (emphasis added).¹ As I explained in my reply to

¹ Fact discovery relating to events of monetary default closed on August 23, 2021. (ECF Doc. 156 at ¶ 1).

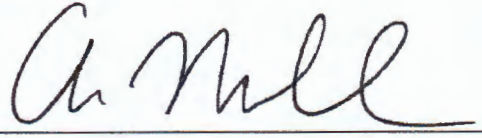
Hon. Kenneth M. Karas, U.S.D.J.
Case No. 7:20-cv-5063
Page 2 of 2

opposing counsel (Exhibit "A" at 1), if I had known in July that Plaintiff would file its voluminous summary judgment motion almost three (3) full weeks early, timing the motion so that the Labor Day, Rosh Hashanah and Yom Kippur holidays would all cut into Defendants' time to prepare opposition papers, I would have insisted upon a lengthier response period in the first instance.

We thank the Court for its consideration.

Respectfully submitted,
Kaufman Dolowich & Voluck, LLP

By:


Adam M. Marshall, Esq.

Encl.

cc: All Counsel via ECF

Granted.

SO ORDERED


KENNETH M. KARAS U.S.D.J.

9/21/2021

EXHIBIT “A”

Adam M. Marshall

From: Adam M. Marshall
Sent: Monday, September 20, 2021 1:34 PM
To: Sophia Cahill
Cc: Michael Driscoll; Robert Friedman; Gary Rosen; Erik Ortmann
Subject: RE: LMREC v. Hudson EFT LLC, et al.

Sophia,

Thanks for the belated response. I note that your office could have advised me of Plaintiff's inflexible position when I emailed on Friday morning instead of waiting three full days. Moreover, the scheduling order we negotiated had a deadline of September 20 for filing the motion. Had I known that Plaintiff was going to file its motion almost 3 full weeks early – timing the motion so that the Labor Day, Rosh Hashanah and Yom Kippur holidays would all eat into my clients' opposition time – I would have insisted upon a lengthier response period in the first instance.

I will advise the Court of your position in my letter.

Best,

--Adam

Adam M. Marshall
Attorney At Law



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From: Sophia Cahill <SCahill@sheppardmullin.com>
Sent: Monday, September 20, 2021 1:16 PM
To: Adam M. Marshall <amarshall@kdvlaw.com>

Cc: Michael Driscoll <MDriscoll@sheppardmullin.com>; Robert Friedman <rfriedman@sheppardmullin.com>; Gary Rosen <groser@rosenlawllc.com>; Erik Ortmann <eortmann@kdvlaw.com>
Subject: RE: LMREC v. Hudson EFT LLC, et al.

[EXTERNAL SENDER]
Adam,

On behalf of Plaintiff, we cannot consent to an extension at this time. We negotiated the scheduling order in good faith at the end of July, with the purpose of promptly moving the litigation forward as Plaintiff continues to incur significant expenses with securing and maintaining the property. Plaintiff originally proposed 14 days for defendants to file and prepare opposition, but ultimately agreed to 21 days, and Defendants have now had three weeks to prepare opposition papers since the filing of Plaintiff's summary judgment motion on September 1. Therefore, our client does not consent to the extension as requested.

Regards,

Sophia L. Cahill
+1 212-896-0671 | direct
SCahill@sheppardmullin.com | [Bio](#)

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From: Adam M. Marshall <amarshall@kdvlaw.com>
Sent: Monday, September 20, 2021 9:42 AM
To: Sophia Cahill <SCahill@sheppardmullin.com>
Cc: Michael Driscoll <MDriscoll@sheppardmullin.com>; Robert Friedman <rfriedman@sheppardmullin.com>; Gary Rosen <groser@rosenlawllc.com>; Erik Ortmann <eortmann@kdvlaw.com>
Subject: FW: LMREC v. Hudson EFT LLC, et al.

Just following up on the below email as I will be writing the Court today. Thanks.

Adam M. Marshall
Attorney At Law



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Please consider the environment before printing.

From: Adam M. Marshall <amarshall@kdvlaw.com>

Sent: Friday, September 17, 2021 11:32 AM

To: Sophia Cahill <SCahill@sheppardmullin.com>

Cc: Driscoll Michael <MDriscoll@sheppardmullin.com>; Robert Friedman <rfriedman@sheppardmullin.com>; Gary Rosen <groten@rosenlawllc.com>; Erik Ortmann <eortmann@kdvlaw.com>

Subject: LMREC v. Hudson EFT LLC, et al.

Hi Sophia,

Will Plaintiff consent to extend the deadline for defendants to file opposition to Plaintiff's summary judgment motion to October 6? I have several other conflicting motion schedules and was out for the Jewish holidays this month.

Please let me know at your earliest convenience.

Thanks,

--Adam

Adam M. Marshall
Attorney At Law



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